

1 LISA J. DEMSKY (State Bar No. 186006)
Lisa.Demsky@mto.com
2 JESSICA O. LAIRD (State Bar No. 331713)
Jessica.Laird@mto.com
3 MUNGER, TOLLES & OLSON LLP
350 South Grand Avenue, 50th Floor
4 Los Angeles, California 90071-3426
Telephone: (213) 683-9100
5 Facsimile: (213) 687-3702

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7 *Attorneys for Non-Party Riot Games, Inc.*

8 UNITED STATES DISTRICT COURT

9
10 NORTHERN DISTRICT OF CALIFORNIA

11 IN RE GOOGLE PLAY STORE
12 ANTITRUST LITIGATION

Case No. 21-md-02981-JD

13 THIS DOCUMENT RELATES TO:

**[PROPOSED] ORDER RE NON-PARTY
RIOT GAMES, INC'S ADMINISTRATIVE
MOTION TO SEAL PORTIONS OF THE
TRIAL RECORD**

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15 *In re Google Play Store Antitrust
Litigation*, No. 3:21-md-02981-JD

Judge: Hon. James Donato

16 *Epic Games, Inc. v. Google LLC et al.*,
17 No. 3:20-cv-05671-JD

On December 8, 2023, Non-Party Riot Games, Inc. (“Riot”) filed Administrative Motion to Seal Portions of the Trial Record (the “Motion”). Through the Motion, Riot moves to seal certain portions of the trial record in which the deposition of Riot employee Mark Sottosanti taken on October 27, 2023, (the “Sottosanti Deposition”) was played, and certain exhibits that were marked during the Sottosanti Deposition (the “Sottosanti Exhibits”) displayed and admitted in Court. The Motion is supported by the Declaration of Lisa Demsky and the Declaration of Dan Nabel, which identifies the specific portions of the Sottosanti Deposition and Sottosanti Exhibits that are sealable and the reasons for sealing them.

Having considered Riot’s Motion and supporting declaration,

IT IS HEREBY ORDERED:

Compelling reasons exist to seal the information requested due to the risk of competitive harm to Riot in ongoing and future negotiations. The following portions of the Sottosanti Exhibits may be filed under seal and may only be included in the trial record in a manner that does not disclose them to the public:

Deposition Exhibit Number (Bates Number)	Portion Sought to Be Sealed	Reasons for Seeking Sealing	Ruling
Exhibit 1221 (GOOG-RIOT-0000333)	Entire Document	Exhibit 1221 is an internal Riot presentation following a meeting with Google describing negotiation strategy and considerations that may affect active negotiations.	
Exhibit 1222 (GOOG-RIOT-0000347)	Entire Document	Exhibit 1222 is an internal Riot document summarizing technical capabilities and content delivery considerations, which if revealed would	

		competitively disadvantage Riot.	
Exhibit 1226 (GOOG-RIOT-0000105)	Entire Document	Exhibit 1226 is an internal Riot document following a meeting with Google describing negotiation strategy and considerations. It reveals negotiation strategy not disclosed to persons outside the Riot negotiating team that may affect active negotiations.	
Exhibit 1227 (GOOG-RIOT-0000034)	Entire Document	Exhibit 1227 is an internal Riot presentation summarizing negotiation strategy and considerations for particular agreement terms that may affect active term negotiations with other parties.	
Exhibit 1229 (GOOG-RIOT-0000046)	Entire Document	Exhibit 1229 is an internal Riot email communication summarizing an agreement with Google regarding content delivery and Riot's internal negotiation strategy and considerations that may affect active negotiations.	

The portions of the transcript of Court proceedings on November 29, 2023, containing the following portions of the Sottosanti Deposition may be filed under seal and may only be included in the trial record in a manner that does not disclose them to the public:

Page & Line Numbers	Reasons for Seeking Sealing	Ruling
34:2–35:16; 35:18; 35:20–37:7; 38:2–39:10; 39:12–13;	Exhibit 1221 is an internal Riot presentation following a meeting	

1	39:18–40:12, 40:14–17;	with Google describing	
2	80:23–81:1; 81:6–82:14;	negotiation strategy and	
3	82:16–83:36; 83:8; 83:10–15;	considerations that may affect	
4	104:25–105:2; 104:13–15;	active negotiations. This	
5	104:17–23; 145:1–2; 145:4–	testimony describes that	
6	15; 146:11–12; 146:17–25;	presentation document and	
7	147:2–4; 148:7–10; 148:17–	explains that the document	
8	149:8; 149:11; 150:4–13;	contains internal “thoughts and	
9	150:16–17; 150:19–20;	recommendations” (34:10 – 11)	
10	150:22–24; 151:2– 6; 151:22–	regarding content delivery and	
11	152:11; 152:22–153:7; 153:9;	market strategy. <i>See</i> Nabel	
12	153:11–12; 153:14; 153:16–	Declaration, ¶ 3.	
13	22; 153:23–24; 154:1–3;		
14	154:5–13; 154:15–21;	Exhibit 1229 is an internal Riot	
15	165:17–22; 166:11–12;	email communication	
16	166:21–22; 166:24; 167:2–7;	summarizing an agreement with	
17	167:9; 167:11–16; 167:22–24;	Google regarding content delivery	
18	168:1–8; 168:10–14; 168:21–	and Riot’s internal negotiation	
19	25; 169:6–8; 169:11–15;	strategy and considerations that	
20	170:24–171:18; 171:20–172:2	may affect active negotiations.	
21	172:11–16; 172:18; 172:20–	<i>See</i> Nabel Declaration, ¶ 3.	
22	21; 172:23; 172:25–173:8;		
23	174:5–10; 174:14–19; 174:21;		
24	175:8–11; 175:16–20; 175:22;		
25	178:1–2; 179:21–180:10;		
	180:12; 180:14–15; 180:17–		
	18; 180:20–23; 191:9–11;		
	191:13		
15	155:13–156:22; 157:25–	Exhibit 1222 is an internal Riot	
16	158:6; 158:8–11; 158:22–24;	document summarizing technical	
17	163:7–8; 163:10–15; 163: 20–	capabilities and content delivery	
18	22; 163:24–25; 164: 2–4;	considerations. This testimony	
19	164:8–165:10; 165:12;	describes that document and	
20	165:14–16	explains that the document	
21		contains “educational”	
22		information from internal	
23		“technical people to business	
24		people” at Riot (158:9 – 10)	
25		regarding content delivery	
		considerations and strategy, which	
		if revealed would competitively	
		disadvantage Riot. <i>See</i> Nabel	
		Declaration, ¶ 3.	
23	58:11–60:16; 61:5–62:15;	Exhibit 1226 is an internal Riot	
24	62:22– 25; 63:2–5; 63:14–18;	document following a meeting	
25	63:20; 63:22–23; 63:25;	with Google describing	
	64:2–8; 64:10–23; 65:1–7;	negotiation strategy and	

181:25–182:6; 182:14–23; 182:25–183:1; 183:6–10; 183:12; 183:14–184:1	considerations. This testimony describes that document and explains that the document contains “subtext” from the meeting rather than the express discussion (59:17 – 21). It reveals negotiation strategy not disclosed to persons outside the Riot negotiating team that may affect active negotiations. <i>See</i> Nabel Declaration, ¶ 3.	
69:5–14; 69:16	Exhibit 1227 is an internal Riot presentation summarizing negotiation strategy and considerations for particular agreement terms that may affect active term negotiations with other parties. This testimony describes that document and explains that it refers to negotiation considerations and Riot’s expectations regarding terms of an agreement with Google. <i>See</i> Nabel Declaration, ¶ 3.	

The parties and their counsel shall not disclose or publish the portions of the Sottosanti Deposition and Sottosanti Exhibits that are sealable, as indicated in the charts above, to anyone other than the jury, the Court, and trial counsel for the parties, who shall use it solely for the purposes of adjudication of the above-captioned matter.

The Clerk is hereby directed to seal and treat as sealed from the public record any portion of the trial transcript that discloses the portions of the Sottosanti Deposition and the Sottosanti Exhibits that are sealable, as indicated in the charts above.

IT IS SO ORDERED.

1 DATED: _____, 2023

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4 Honorable James Donato
United States District Judge
Northern District of California
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